

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Public Services – Establishment - WD & CW Department – Disciplinary action against Smt.K.Mutyamma, former DM,DMSVK, Ananthapur and present PD, DW&CDA, Ananthapur – Major Penalty imposed by the Director, WD&CW, AP, Hyderabad – Appeal Petition – Disposed off – Orders- Issued.

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Department for Women, Children, Disabled & Senior Citizens (Estt.A2)

G.O.Rt.No. 30

Dated:20th January, 2012.

Read the following.

- 1) Proc. Rc.No. 5769/Vig-I/2009, Dt:23-03-2011 of Director, WD &CW, AP, Hyd.,
- 2) From Smt.K.Muthyalamma, former D.M., D.M.S.V.K., Anantapur and present Project Director, DW&CDA, Anantapur, Appeal Petition, dt.07.07.2011.
- 3) Govt. Memo No.4172/Estt.A2/2011, Dt:16-09-2011.
- 4) From the Director, WD & CW, Lr.No.4411/Vig-I/2011, Dt:18-11-2011.

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Smt.K.Muthyalamma, Project Director, ICDS Project, Anantapur, in her Appeal Petition read above, has prayed for setting aside the punishment imposed in the impugned Proceedings No.5769/Vig-1/2009, Dt.23.03.2011 of the Director, Women Development & Child Welfare, Hyderabad and to exonerate her from the charges framed against her on the following grounds supported by certain judicial pronouncements.....

- The enquiry was not conducted as per the procedure laid down in Rule 20 of APCS(CCA) Rules, 1991 and instructions of the Government in Memo. No.24637/Ser.C/2000-2, G.A Department, Dt.05.09.2000 and thereby she was greatly prejudiced. Further, Rule 20(14) of APCS (CCA) Rules, 1991 mandate the inquiry officer to question the charged officer after he closes his case on the circumstances appearing against him and seek his explanation and in as much as the Enquiry Officer did not conduct general examination and she was prejudiced and the entire enquiry proceedings are vitiated.
- The Enquiry was based on presumptions, conjectures and suspicion which cannot be based to punish an employee.
- The order passed by the Disciplinary Authority was cryptic and do not contain any reasons as to how the report of the Enquiry Officer was accepted and charges are held proved. Except extracting the articles of charge framed against her, her defence and finding of the Enquiry Officer, no independent judgment of the Disciplinary is reflected in the punishment order. The final order should be a speaking order and it shall not only contain reasons for the conclusions reacted, but must also mention various facts or materials on which they are based as held by the Hon'ble supreme Court of India in the case of State of Punjab Vs Bhaktharam Singh (AIR 1972 SC 2083). Further, that where a major penalty has been imposed, the Disciplinary Authority shall give his own findings on the evidence adduced during Enquiry and then come to a conclusion that a major penalty should be imposed on the basis of its findings as held by the Hon'ble High Court of A.P. in the case of K.Balaramaraju (2009 (H) ALT 332 DB)

(P.T.O).

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2. On verification of the original records pertaining to the Proceedings in question it is seen that a charge Memo. was issued to Smt K. Muthyalamma, the then District Manager, DMSVK, Ananthapur(FAC) by the Director, Women Development & Child Welfare, Hyderabad for the alleged drawl of amount of Rs.21,500/- on 25.03.2009 while she was holding the Full Additional Charge of District Mahila Pranganam, Ananthapur to meet the expenditure towards training programme to be conducted for Anganwadi Workers and issuing utilization certificate to that effect without conducting the said training and subsequent remittance of the said amount in the Account belatedly on 23.07.2009 after the issue was published in the Media on 25.06.2009. In her explanation she denied these charges. Having not satisfied with the explanation, the charges were got enquired into by the Disciplinary Authority by appointing an Inquiry Officer. Inquiry Officer submitted his report wherein the charges 1-3 were held proved and charge-4 partially proved. In pursuance of the findings of the Enquiry Officer, while furnishing a copy of the Enquiry Officer's report, a show cause Notice bearing No.5769/vig-1/2009, Dt.05.02.2011 was issued to her to explain within 15 days from the date of the receipt of Memo, as to why the punishment under Rule 9 of APCS (CCA) Rules, 1991, should not be imposed against her. The show cause notice was served on the individual on 28.02.2011. In response to the said show cause notice, she sought extension of time, duly explaining that she scheduled to leave to USA on 01-03-2011. Her request for extension of time was rejected by the Disciplinary Authority without assigning any reasons and imposed the penalty of stoppage of one annual grade increment with cumulative effect. Thus, principles of natural justice of being heard by giving reasonable opportunity has been vitiated.

3. Further, it is found from the above disciplinary proceedings that the Inquiry Officer could not establish the drawn amount of Rs.21,500/- was in the custody of the Delinquent or Smt. A.Chennamma, Accountant. On the other hand Smt. A.Chennamma, Accountant herself admitted that she held the amount for some time and deposited in the Bank under the supervision of Smt.P.Syamala who was subsequently posted in place of Smt.K.Mutyalamma. Thus, the drawn money was handled by both viz. Delinquent Officer and Smt. A.Chennamma, Accountant as witness as she was involved in handling of the un-spent amount is not justified and against the established rules. As such the charges framed against Smt K. Muthyalamma are not sustainable and liable to be set aside.

4. In view of the above, the Appeal Petition read above is allowed and the disciplinary proceedings instituted against the Appellant herein above, Smt.K.Muthyalamma, former District Manager, D.M.S.V.K., Anantapur now Project Director, Ananthapur relating to punishment imposed against her in the proceedings No.5769/Vig-1/2009,Dt:23-03-2011 of the Director, Women Development & Child Welfare, Hyderabad is hereby set aside.

5. Setting aside the proceedings does not preclude the disciplinary authority from taking disciplinary action duly instituting a common disciplinary proceedings by framing charges afresh against both Smt K. Muthyalamma, Project Director, ICDS Ananthapur and Smt A. Chennamma, Accountant, AWTC, DMSVK, Ananthapur who are equally responsible for the said allegations, under APCS (CCA) Rules, 1991. The Director, Women Development & Child Welfare, Hyderabad shall take further action accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

M. CHAYA RATAN,
SPECIAL CHIEF SECRETARY TO GOVERNMENT

To:
Smt K. Muthyalamma, PD, Ananthapur,
through the Director, WD & CW, Hyd.

Copy to:
The Director, Women Development & Child Welfare, Hyderabad
SF/SC.

// FORWARDED BY ORDER //

SECTION OFFICER